

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2135

IN THE MATTER OF:

Served August 15, 1980

Application of HERBERT G. STEPHENS)
T/A STEPHENS TOUR SERVICE for a)
Certificate of Public Convenience)
and Necessity to Perform Charter)
Operations)

Case No. AP-80-15

By application filed April 23, 1980, as amended, Herbert G. Stephens trading as Stephens Tour Service seeks a certificate of public convenience and necessity to transport passengers in charter operations between points in the Metropolitan District. 1/ Pursuant to Order No. 2106 served May 6, 1980, and incorporated by reference herein, a public hearing was held on June 18, and July 9, 1980. Airport Limo, Inc., appeared in opposition to the application but withdrew its protest after the application was amended to restrict service against the transportation of passengers to or from Washington National Airport, Gravelly Point, Va., and Dulles International Airport, Chantilly, Va. 2/

Mr. Stephens does not hold any authority from this Commission but does provide charter service pursuant to a grant of emergency temporary authority from the Interstate Commerce Commission (ICC). He testified that he owns a 15-passenger van equipped with running boards to ease access for passengers into the van, a public address system, and seats installed on an incline to allow for convenient sightseeing.

1/ Not including service between points solely within the Commonwealth of Virginia. See Compact, Title II, Article XII, Section 1(b).

2/ Beltway Limousine Service, Inc., filed a notice of protest but did not appear at the public hearing. Accordingly, its protest is entitled to no weight.

The proprietor described the maintenance and safety programs and his financial status. He stated his intention to focus on transportation for senior citizens and his expectation that approximately 85 percent of his total operations would be to points outside the Metropolitan District pursuant to his ICC authority. He proposes to charge \$23 per hour without any minimum number of hours.

In support of the application a number of witnesses, who either use Stephens Tour Service or arrange for transportation, presented testimony. A representative from a Rockville, Md., boy scout auxilliary group composed of about 100 parents, stated that the group schedules four or five social outings a year to Wolf Trap, the Kennedy Center or the Capital Centre, having eight to ten people on each trip. In addition, he stated that the boy scout troop would use Mr. Stephens' service on occasion to supplement automobile use. The director of activities at the Asbury Methodist Home, a senior citizens home located in Gaithersburg, Md., testified that she is responsible for planning transportation for 173 residents taking recreational trips. She has used applicant's service for trips outside the Metropolitan District a number of times for groups of 10 to 15 people and professed an interest in arranging trips to the Smithsonian Institution, the Kennedy Center and various local museums. The witness stated that applicant's personalized service, attention to specific needs of senior citizens and inclusion of the special features on his van, make his operation especially suitable for her needs.

Three residents of the Asbury Methodist Home generally testified that, prior to the availability of applicant's service for trips outside the Metropolitan District, few trips were arranged because the number of people interested in traveling was too small to afford a large coach. A van, they feel, is the optimal vehicle for most of their groups. They further stated that Mr. Stephens provided excellent service on past excursions including special attention to the needs of senior citizens. The witnesses stated that they would like to be able to venture to the Smithsonian, Alexandria, Va., shopping malls and various sightseeing locations in Washington, D. C., whenever possible.

The executive secretary of the Maryland Division of the Izaak Walton League testified that his organization has need of transportation from points in Montgomery County, Md., to Washington, D. C. for the purpose of testifying before Congressional committees. Often groups of eight to ten people travel together making van transportation a convenient, economical mode of transportation. Applicant's services for trips to specific local areas to check environmental conditions would also be useful, according to the witness.

The regional chairman of the International Council of Psychologists stated that he is responsible for arranging conferences

in the local area attended by people visiting from outside the Metropolitan District. Transportation between local hotels and motels and sightseeing tours for small groups would be necessary, originating service in Virginia, Maryland and the District of Columbia. The council would be responsible for coordinating the transportation service and contracting with the carrier.

The activities director of a senior citizens home located in northwest Washington, D. C., testified that she arranges trips for the 70 residents in groups of 6 to 10 people to area sightseeing, shopping and entertainment. She projects use of applicant's service on a monthly basis if he is authorized to operate by the Commission. Currently, motor coaches are used but trips are infrequent because of the cost and the number of people needed to justify use of a bus.

The director of resident services for the Carriage Hill Nursing Center in Arlington, Va., is responsible for planning activities and arranging transportation for 230 residents who are interested in sightseeing, shopping and entertainment. In the past, a motor coach has been used, but was found to be impractical because of the narrow doorway and steep steps. The witness pointed out that since Mr. Stephens has ICC authority to operate outside the Metropolitan District, a grant of local authority would enable him to offer a complete service so that passengers would feel comfortable traveling in the same van on all outings. She expects to schedule at least five or six trips a year.

The Compact, Title II, Article XII, Section 4(b), provides that a certificate of public convenience and necessity shall be issued by the Commission if it finds ". . . that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise, such application shall be denied."

The Commission finds that applicant has sustained his burden of proof regarding the matter of need for serving such charter groups as service organizations, nursing homes and trade associations. Evidence presented by applicant indicates a need for a service offered in a van outfitted to accommodate senior citizens as well as others. The lack of opposition after restriction against operations to or from local airports warrants the conclusion that existing carriers would not be adversely impacted by a grant of this application. Additionally, a grant of authority herein, along with his ICC authority, enables applicant to offer a complete geographic service to charterers interested in arranging for transportation both within and outside the Metropolitan District.

The record in this proceeding also establishes that applicant has suitable equipment available, and that he is fit, financially and otherwise, to conduct operations pursuant to a certificate of public convenience and necessity.

The authority granted will be phrased to include charter groups shown to have a need for service but exclude such chartering entities as schools, governmental agencies and employers as described in Commission Regulation No. 70-01 3/ (with the exception of qualifying associations as defined in Commission Regulation No. 70-02), inasmuch as applicant has not presented evidence to warrant their inclusion. Service will be restricted to the performance of transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver, in conformance with the evidence of record. The grant of authority will be restricted against service to and from Washington National Airport and Dulles International Airport as agreed to in the amendment to the application and will be further restricted against service solely between points in the Commonwealth of Virginia. (See footnote 1, supra.)

THEREFORE, IT IS ORDERED:

1. That the proposed amendment restricting service against transportation to or from Washington National Airport and Dulles International Airport is hereby accepted.

2. That Herbert G. Stephens trading as Stephens Tour Service is hereby granted authority to transport passengers between points in the Metropolitan District restricted to the performance of such operations in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver and restricted against (1) transportation described in Commission Regulation No. 70-01 (except qualifying associations as defined in Commission Regulation No. 70-02), (2) operations to or from Washington National Airport and Dulles International Airport and (3) operations conducted solely between points in Virginia.

3. That the application of Herbert G. Stephens trading as Stephens Tour Service, in Case No. AP-80-15, except to the extent granted above, is hereby denied.

4. That applicant is hereby directed to file with the Commission (a) a certificate of insurance as required by Commission Regulation No. 62, (b) an affidavit of compliance with Commission

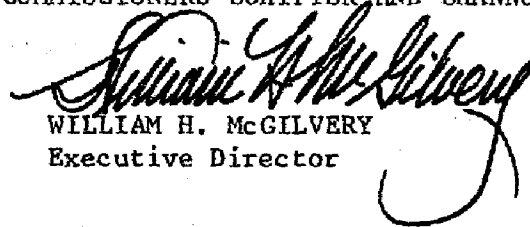
3/ Commission Regulation No. 70 was adopted in Order No. 2004, served June 20, 1979, and became effective July 21, 1979.

Regulation No. 68 governing identification of motor vehicles and (c) two copies of his WMATC Tariff No. 1 as required by Commission Regulation No. 55, such tariff to be effective upon acceptance by the Executive Director.

5. That upon compliance by applicant with the directives set forth in paragraph 4 above, an appropriate certificate of public convenience and necessity will be issued.

6. That in the event applicant fails to comply with the directives set forth above within 30 days, or such further time as may be authorized, the grant of authority made herein will be considered void and the application will stand denied in its entirety effective upon expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director